

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN DONALD L. HEDGES**, on February 15, 2001 at 3:15 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Donald L. Hedges, Chairman (R)
Rep. Linda Holden, Vice Chairman (R)
Rep. Ralph Lenhart, Vice Chairman (D)
Rep. Darrel Adams (R)
Rep. Norma Bixby (D)
Rep. Rick Dale (R)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Christopher Harris (D)
Rep. Verdell Jackson (R)
Rep. Jim Keane (D)
Rep. Larry Lehman (R)
Rep. Holly Raser (D)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)
Rep. Butch Waddill (R)
Rep. Karl Waitschies (R)
Rep. Merlin Wolery (R)

Members Excused: Rep. Gilda Clancy (R)

Members Absent: None.

Staff Present: Krista Lee Evans, Legislative Branch
Robyn Lund, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 531, 2/12/2001; HB 556,
2/12/2001; HJ 25, 2/12/2001;
HB 599, 2/12/2001; HB 541,
2/12/2001; HB 552, 2/12/2001;
HB 571, 2/12/2001

Executive Action: HB 556; HB 541; HB 599; HJ 25;
HB 531; HB 552; HB 571; HB
418; HB 498; HB 495; HJ 21

HEARING ON HB 556

Sponsor: Representative John Esp, HD 25

Proponents: None

Opponents: None

Opening Statement by Sponsor:

Representative John Esp, HD 25, thinks that this is a good bill that would help families, but that it is premature. He asked the committee to table this bill.

EXECUTIVE ACTION ON HB 556

Motion/Vote: REP. DALE moved that HB 556 BE TABLED. Motion carried unanimously.

HEARING ON HB 531

Sponsor: Representative Karl Waitschies, HD 96

Proponents: Pam Langley, Montana Agro Business Association
Carol Lambert, WIFE

Informational Witnesses: Dave Galt, Director of Transportation

Opening Statement by Sponsor:

Representative Karl Waitschies, HD 96, said that this is a straight forward bill to enhance the ability of manufacturers to bring large fertilizer equipment into the state without first having to pay property taxes. Right now the law says that they are special mobile equipment and before they can go on the highways you must buy a plate and pay property taxes, even before the unit is sold or leased. These machines are quite expensive and people like to try them out before they use them. To do that the manufacturer must pay property tax on them before they can bring them into the state. This bill allows them to buy a demonstration permit for 45 days and then, if it is leased or bought, the property taxes will apply.

Proponents' Testimony:***{Tape : 1; Side : A; Approx. Time Counter : 5.6}***

Pam Langley, Montana Agro Business Association, said that this enables those demonstrating large fertilizer spreader equipment to be treated as other implement dealers. It provides for a temporary permit for a demonstration, so that the companies that sell the equipment can provide service in Montana. There are only three companies that do this and they don't have local dealers. There is no rule in law for these to be treated as other vehicles. That is why this bill is here. It just delays the imposition of the property tax until the equipment is sold or leased out. This is not an authorization to bring equipment in and lease it out and not pay property taxes. It is important to note that the state doesn't lose money, but may gain if more units are purchased. The companies see current law as a barrier to doing business in Montana.

Carol Lambert, WIFE, stated that HB 531 could enhance farming operations. It would make it a little easier if these companies could come to the farmer instead of the farmers going to them.

Informational Testimony:***{Tape : 1; Side : A; Approx. Time Counter : 10.5}***

Dave Galt, Director of Transportation, stated that there is a loop hole for these folks to come in and operate on our highways and there isn't a real fix in current law without sending them to the county court house for a license and paying a full year's taxes. They are ready to do this.

Questions from Committee Members and Responses:***{Tape : 1; Side : A; Approx. Time Counter : 11.2}***

REPRESENTATIVE VERDELL JACKSON asked, of the sponsor, for information on the fiscal note. **Rep. Waitschies** said that the Fiscal Note says the cost per year 2001 for programming is \$4,590. There is an additional from the fund of \$250 for printing the forms and permits. The revenue estimate, which he think is high, is 250 units would bring in \$6,250 for the state highway special revenue and \$6,250 for the county road fund.

REPRESENTATIVE LARRY LEHMAN asked if these vehicles are licensed in other states than which they originate in. **Mr. Galt** said that they sometimes are. It depends on if it is considered an implement of husbandry.

REPRESENTATIVE JIM KEANE asked why 45 days was picked.

Rep. Waitschies said it is to give the unit time to get to several customers in one trip. **REP. KEANE** asked how many people they are demonstrating to. **Rep. Waitschies** said that they would typically go to co-ops or large fertilizer dealers and spreaders who go out and custom spread.

REP. JACKSON asked if 250 units a year is accurate. **Mr. Galt** thinks that is a little high. **REP. JACKSON** was wondering if it can be done without reprogramming the computers since it is such a small number. **Mr. Galt** said that would only save money once, but not for the long term. It would be much harder and much more paperwork to not program the computers.

Closing by Sponsor:

REP. WAITSCHIES said that the bill is made to make it easier for fertilizer equipment manufacturers to come and demonstrate their equipment. He noted that there were some amendments coming.

HEARING ON HJ 25

Sponsor: Representative Dick Haines, HD 63

Proponents: Cary Hegreberg, Montana Wood Products Association
Patrick Heffernan, Montana Logging Association
Al Kington, Montana Forest County Coalition

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 17.8}

Representative Dick Haines, HD 63, stated that this bill is offered for the purpose of urging our federal land management agencies that have lands that were burned over in this last summer to do something with the salvage and restoration of those lands. Fire killed timber will maintain its commercial value for a maximum of two years, depending on the species. Another aspect is the concern of federal timber sales not returning the cost of the sale, in other words, a low cost sale. The longer you wait, the more value will be lost. The timber industry seems to always be talking about not having enough timber and not being able to sustain its mills, so when the timber has lost its value, the industry becomes the scapegoat. There is also a public safety concern. There is a lot of standing dead timber near roads and recreational areas. If we don't get some of that timber out of

there, as the wind occurs, it is going to be like piling up your kindling. If a fire gets started, it will burn much hotter than it did the first time, most likely killing the seed source and making the recovery of that land more difficult. We want to say to the federal agencies that they need to get the program going.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 24}

Cary Hegreberg, Montana Wood Products Association, said that they support this resolution for a variety of reasons. It is the right thing to do for the forest. It is a good thing to do for our saw mills and our working people. He submitted a copy of a poll that they had done. **EXHIBIT(aqh38a01)** This wood loses value every month that it stands there. The forest service claims that they don't have the money, but they are spending money on other things that don't seem to be as important. We need to do the work where it counts.

Patrick Heffernan, Montana Logging Association, said that they are trying to put a united front on the salvage issue. There is a critical need right now for affordable timber in order to be able to produce lumber in what is currently a fairly depressed lumber market. You can't turn expensive logs into cheap lumber. It only seems right that we take action to salvage that timber and to implement some of the actions previously mentioned. DNRC is already taking action to conserve the soil resources for future tree growth. This resolution will show a united front that we need to take action so that we don't lose this valuable timber, and that we need to take some action to conserve our soil resources.

Al Kington, Montana Forest County Coalition, said that this is a united effort. If we are going to get something done with these forest lands, we have to do it now. For the counties that he represents there is 300 million feet of timber available annually for three years. This would give about \$4 million to the state 25% fund on an annual basis.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 35.5}

REPRESENTATIVE RALPH LENHART said that he thinks this is a great idea. What role is out congressional delegation playing in all of this? **Rep. Haines** recalled that both Burns and Baucus have made statements that they want something along these lines to happen. **REP. LENHART** said that they should be encouraged to work

quickly, is that correct? **Rep. Haines** said that a copy of this would be sent to the congressional delegation.

REPRESENTATIVE JIM KEANE thinks that we should make the bill to include the other forests where the fires were and not just focus on the Bitterroot Forest. **Rep. Haines** said that it was not his intent to emphasize any specific forest.

REPRESENTATIVE CLARICE SCHRUMPF asked how long after a fire is the timber still usable. **Rep. Haines** said that it depends on the species. Ponderosa pine loses value very quickly as it develops a blue stain. Douglas fir will probably last a year to 18 months. Lodge pole may last for two years. They think that two years is the absolute maximum that you can count on having any value left.

REPRESENTATIVE CHRISTOPHER HARRIS asked if anyone in the Martz administration called up Washington DC and said this is a crucial issue. If so, what was the response. **Rep. Haines** knows that the Martz administration has made a number of public statements emphasizing their concern.

REPRESENTATIVE BUTCH WADDILL said that he lives near the Bitterroot and he has seen logging trucks carrying burnt timber; are those commercial operations? **Rep. Haines** said that those would be commercial operations dealing with the sales that the state has put up. Those sales total about 21 million feet of board timber. **REP. WADDILL** asked if it would help to have Representatives call people in the area to give support. **Rep. Haines** said that it wouldn't hurt. Any one of the national forest service areas could be contacted directly.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 45.7}

Rep. Haines said that these agencies would do a good and professional job and meet the environmental constraints that are appropriate for the areas. He sees this as a threat to the environment if we don't do this.

HEARING ON HB 599

Sponsor: Representative Dick Haines, HD 63

Proponents: None

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 48.1}

Representative Dick Haines, HD 63, said that this is a straight forward bill. The idea is to define minimum slash hazard. By slash hazard they mean that if you are cleaning up property or anything in which you would end up with woody debris, certain amounts of that kind of debris doesn't constitute a fire hazard. If there is any doubt, state officials can come out and certify that there is not a hazard.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 51.3}

REPRESENTATIVE HOLLY RASER asked what amount would be considered a hazard. **Rep. Haines** said that would be a judgement call. It would depends on things such as location.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 52.6}

Rep. Haines thanked the committee for a good hearing.

HEARING ON HB 541

Sponsor: Representative Merlin Wolery, HD 90

Proponents: None

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 0.1}

Representative Merlin Wolery, HD 90, said that this is a simple bill, but it has created a lot of controversy. It was meant to clean up some language, but was not well received by the ag bankers. With that in mind he wishes to withdraw the bill.

Closing by Sponsor:

Rep. Wolery would like to table this bill.

EXECUTIVE ACTION ON HB 541

Motion: REP. WOLERY moved that HB 541 BE TABLED.

Discussion:

REPRESENTATIVE CHRISTOPHER HARRIS doesn't see any problems that this bill would create in terms of loans or liens or anything else.

REPRESENTATIVE DON HEDGES agrees with REP. HARRIS.

REP. WOLERY said that he doesn't feel that it causes a problem, but they don't want to cause any controversy. He has asked several attorneys and the majority of them don't see a problem with the bill either. He called for the question.

Motion/Vote: REP. WOLERY moved that HB 541 BE TABLED. Motion carried 17-2 with Gallik and Harris voting no.

HEARING ON HB 571

Sponsor: Representative Kathleen Galvin-Halcro, HD 48

Proponents: None in attendance. (See Exhibit 2)

Opponents: John Moodry, Butte Silverbow Weed District
Bob Gilbert, Rosebud County Weed District
Doug Johnson, Cascade County Weed and Mosquito
Management
John Semple, Montana Areal Applicators
Tom Stelling, Cascade County Commissioner

Informational Witnesses: Will Kissinger, Department of
Agriculture

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 5.2}

Representative Kathleen Galvin-Halcro, HD 48, said that this bill would simply expand rule making authority in the department of ag in dealing with new or improved pesticide facilities owned or operated by a government entity. In the center of HD 48, in a residential area, near parks and schools, sits the Cascade County Weed and Mosquito Abatement Facility. This facility has been

there for more than 25 years. There have been problems at this facility. The department of agriculture found contamination that warrants further monitoring and investigation to determine the potential danger to human health and the environment. They are discussing moving this facility outside the city limits at a later date. The citizens of HD 48 are asking that the facility be moved outside the city limits now.

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 9.5}

Rep. Galvin-Halcro submitted written testimony.

EXHIBIT (agh38a02)

Opponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 15.7}

John Moodry, Butte Silverbow Weed District, said that one of the concerns that they have is that if these types of facilities are detrimental to parks, schools, et cetera, why doesn't this address the private sector as well. Another concern is the definition of improvements on facilities. Will a facility be able to make improvements for safety without having to move the facility? If not, they can see improvements not being done on an existing unsafe facility. In many places in Montana, the money for moving facilities is not there. The standards set for new facilities are needed in Montana. We do need the direction, on new facilities, of how and where to build them. They feel that the 1500 foot buffer zone is excessive; a 100 to 200 feet buffer zone is adequate.

Bob Gilbert, Rosebud County Weed District, said that when you try to solve a local problem with a state law there are usually more problems created than are solved. It would be better to solve these problems locally. He is concerned about what type of rules we may be talking about. Is painting an improvement? He thinks that the language, "Must include, but are not limited to" is dangerous language.

Doug Johnson, Cascade County Weed and Mosquito Management, said that this is a local problem that should be dealt with by the local authorities. Their facility is in an industrial zone. They have been at the forefront in providing safety for their employees for years. The products they are using now are much less toxic than those that had been used in the past. They did a survey of the residents surrounding the facility and not one person noticed any odors from the facility. The local health

department has not received any complaints about the facility in the last 30 years. The department of agriculture found no outside residues from drifting or fumes. They have 10 trees on their property and have never had any herbicide damage to them. They normally have less chemical in their facility than any home improvement store in the area.

John Semple, Montana Areal Applicators, said that his concern is, if this passed, they may fall into the micro management of what is in this bill. The department of ag currently has enough rules and regulations to deal with this.

Tom Stelling, Cascade County Commissioner, said that many of the problems brought up have already been addressed. The new building is to address the concerns of the residents in the area. They would like to move immediately, but they can't afford it. This is a local government issue. You also need to hold private business to the same standards as government facilities.

Informational Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 32.3}

Will Kissinger, Department of Agriculture, is here to answer any questions.

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 32.7}

REPRESENTATIVE CHRISTOPHER HARRIS is concerned if this would cost the department money if a facility was forced to move and asked for reimbursement. **Mr. Kissinger** had not considered that possibility.

REPRESENTATIVE LARRY LEHMAN asked if this was a moot point because the county commissioner had already taken action on this. **Commissioner Stelling** said that is correct. They have already applied for the building permit.

REP. LEHMAN asked why, if this has been an issue since 1973, is it coming to the legislature now. **Rep. Galvin-Halcro** said that these folks have tried to work it out with past and present county commissioners, but they feel that their pleas have fallen on deaf ears. This was their last recourse. **REP. LEHMAN** was under the impression that Mr. Johnson had indicated they purchased the building. **Rep. Galvin-Halcro** said that to her understanding the contract for the building is more than 10 months old. The county does own other property. **REP. LEHMAN**

said that he finds it difficult to understand, were there not a number of county commissioners who were elected, if it were an issue. **Rep. Galvin-Halcro** said he could be right, she doesn't know. She wasn't aware of this issue until the last campaign cycle when it was brought up at numerous council meetings that she attended.

REPRESENTATIVE KARL WAITSCHIES asked if there are currently any procedures in place to address the spills and pollution of the air that was mentioned. **Mr. Steve Barrel** said that there are procedures in place and they have dealt with those spills that were found on the Cascade County site. There are no procedures to deal with odors. Odors are specifically exempted under the law that they administer.

REP. WAITSCHIES asked if it is unsafe or just unpleasant. **Rep. Galvin-Halcro** said that the residents of the area believe that it is unsafe.

REPRESENTATIVE HOLLY RASER is confused because there is testimony that this is a current problem and testimony that the problem has been resolved. **Rep. Galvin-Halcro** said that the proponents to the bill were unable to make it because of the weather. They believe that the facility is not safe. The county would like to move the facility in the future, the residents are asking that the new building be erected outside of the city limits.

REPRESENTATIVE DON HEDGES said that the bill sets into statute rules and regulations for new or modified facilities. It has little effect on any facility that is currently in place.

REP. RASER asked the commissioner how he is addressing concerns of the residents. **Commissioner Stelling** said that they are addressing this problem by putting this new building in place, it will add a small margin of safety. The county is committed to moving the facility, but the money is currently not there.

REP. RASER asked if the neighborhood residents in the area are part of the council. **Commissioner Stelling** said that they were.

REPRESENTATIVE FRANK SMITH asked how long the city blocks are. **Commissioner Stelling** said that the radius where they are at at this point in time is five square blocks. The closest house is across the street, the next closest is two blocks down.

REPRESENTATIVE JIM KEANE asked if this bill could cause any financial impact to the county of Butte Silverbow. **Mr. Moodry** said that it could.

REPRESENTATIVE BUTCH WADDILL asked what the definition of facility is and the applicability of this legislature.

REP. HEDGES said to check Line 30, Page 2. **Krista Lee Evans** said that on Line 26, Page 2, Sub T, the department already has the ability to make rules, but they are not required to. The language came exactly from Sub T, which is where they already have authority to develop rules for facilities. **REP. WADDILL** asked if anywhere addressed regulations for storage of pesticides. **Mr. Barrel** stated that they have administrative rules that deal with the storage of pesticides and the statute requires that pesticides be stored in the way that the label says to store them.

REPRESENTATIVE KARL WAITSCHIES said that it seems that there are three separate entities that you are controlling: facilities built, pesticide mixing and loading sites, and pesticide facilities owned by the government entity. **Ms. Evans** replied that is true and there were two options: redraft it and possibly miss the transmittal deadline or see if the committee wanted to do it. She already has language written to make sure that it is all of those.

REP. HEDGES asked if, in the rule making authority, does the department of agriculture interface with the DEQ in terms of pesticide management in water quality and air quality.

Mr. Kissinger said that they do on the issues that may involve each agency. **REP. HEDGES** asked if, in the rule making process, would they consider location. **Mr. Kissinger** said that they would. **REP. HEDGES** commented that if that was part of the rule making process it wouldn't be necessary for them to legislate a specific distance in legislation. **Mr. Kissinger** said that would depend on the legislative intent.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 10.7}

Rep. Galvin-Halcro said that some of the chemicals in the facility have been shown to be organ toxic in animal studies. It may cause health problems. In 1974, congress passed the safe drinking water act. This law requires the EPA to determine the safe levels of chemicals in drinking water. Standards are needed to place new facilities, they don't belong in a residential area. Commissioner Stelling talked about other priorities than the health of the citizens, what is a better priority than the health of these people?

Sponsor: Representative Jim Shockley, HD 61

Proponents: Mike Murphy, Montana Water Resources Association

Opponents: None

Opening Statement by Sponsor:

Representative Jim Shockley, HD 61, opened by saying that right now the way the current law is, the maximum that you can charge somebody in an irrigation district is \$75. As the Bitterroot Valley subdivides into smaller pieces it makes it more expensive to take the same amount of water and spread it amongst more users and smaller pieces of ground. His constituents wanted to do away with the cap. There has been a concern expressed that is if you go over \$75, you will have to prove that you need to. There is an amendment proposed.

Proponents' Testimony:

{Tape : 2; Side : A; Approx. Time Counter : 18}

Mike Murphy, Montana Water Resources Association, said that the cost of the districts does vary considerably. The administrative costs increase with the increase of smaller units. He supports this bill with the amendment. They feel that there does need to be a cap at some point.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 20.2}

REPRESENTATIVE LINDA HOLDEN asked if this is vague when it says that the administrative charge may exceed \$75, but the charge must be determined on the actual cost for administration. Is it that no ones knows what the administrative costs are? **Mr. Murphy** said that they have the same concern in regards to trying to determine what the assessment should be based on the administrative cost. It does raise the potential of a challenge to the subjectivity associated with the determination of those costs. **REP. HOLDEN** clarified that some districts don't charge even \$5. **Mr. Murphy** said that was correct. **REP. HOLDEN** asked if this would then add a fee to some people that weren't paying before. **Mr. Murphy** said no. This would still be at the option of the district as far as where they set that fee. **REP. HOLDEN** asked if there is another way to word it so that it wouldn't be so vague. **Mr. Murphy** said that he could see that there could be

some improvement as far as the wording, to make that a little clearer.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 22.8}

Rep. Shockley said that the language that he suggested was that language suggested by Mr. Murphy. He feels that it is clear. It simply says that you can go over \$75, if, when you look at the books and divide by the number of people using the service, it comes to more than \$75 per person.

EXECUTIVE ACTION ON HB 599

Motion/Vote: REP. RASER moved that HB 599 DO PASS. Motion carried 18-1 with Gallik voting no.

EXECUTIVE ACTION ON HJ 25

Motion: REP. KEANE moved that HJ 25 AND AMENDMENT DO PASS.

Discussion:

Krista Lee Evans explained the amendments.

REPRESENTATIVE HOLLY RASER thought that the phrasing was possibly not as good as it could be.

REPRESENTATIVE DAVE GALLIK called for the question.

Motion: REP. KEANE moved AMENDMENTS TO HJ 25. Motion carried unanimously.

Motion/Vote: REP. KEANE moved that HJ 25 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 531

Motion: REP. WAITSCHIES moved that HB 531 AND AMENDMENT DO PASS.

Discussion:

REP. WAITSCHIES explained the amendments.

REP. ADAMS called for the question.

Motion/Vote: REP. WAITSCHIES moved AMENDMENTS TO HB 531. Motion carried unanimously.

Motion/Vote: REP. WAITSCHIES moved that HB 531 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 552

Motion: REP. HARRIS moved that HB 552 DO PASS.

Motion: REP. WADDILL moved that AMENDMENT TO HB 552 DO PASS.

Discussion:

Ms. Evans explained the amendments. She stated that she is concerned that it may be contradictory.

REP. DALE suggested that they could just put in a sir charge.

Mr. Murphy added that the administrative charge that would be set at either the \$5 or at \$100. It is a single charge. To call it a sir charge would be confusing the issue from the standpoint of irrigators as far as the assessment that they are charged for that fee. He thinks that we need to maintain the regidity of the \$5 to \$75.

Ms. Evans explained a proposed amendment to cover all of the concerns that had been talked about.

REP. HOLDEN asked if we left it \$5 to \$75 and then said if the administrative charges exceeded \$75. Ms. Evans said that is what it will say.

REP. RASER said it would be simpler to say it in fewer words, if we could.

REP. KEANE called for the question.

Motion/Vote: REP. WADDILL moved that AMENDMENTS TO HB 552 DO PASS. Motion carried unanimously.

Motion/Vote: REP. ADAMS moved that HB 552 DO PASS AS AMENDED. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 39.6}

EXECUTIVE ACTION ON HB 571

Motion: REP. GALVIN-HALCRO moved that HB 571 DO PASS.

Discussion:

REP. WAITSCHIES said that he thought in order to make it workable there would need to be some amendments.

Ms. Evans read the amendments.

Motion: REP. WAITSCHIES moved that AMENDMENTS TO HB 571 DO PASS.

Discussion:

REP. GALLIK asked if there was any special drafting language needed to take care of the concern of rule making authority.

Ms. Evans said that the requirements were already in place, no additional language was needed.

REP. SMITH asked if this would do away with the distance in the bill. Ms. Evans said that this amendment only addresses 3 sub A, 3 sub B stands as is.

REP. LEHMAN noted that there was some concern that we are only addressing government entities. He would submit that government entities are more likely to comply with safety standards than private entities. He thinks the bill has merit, but he thinks that they may be rushing into something that may have ramifications which they can't foresee.

REP. WAITSCHIES asked if the title would need to be amended.

Ms. Evans replied that this amendment fits within the title of the bill.

REP. GALLIK is also concerned about it only being applicable to governmental entities. REP. HEDGES thought that there would be a problem with the title of the bill to make that amendment.

REP. GALLIK said that the title indicates that it amends section 80-8-105, therefore he feels that it is within the context of the title. REP. GALVIN-HALCRO said that she is uncomfortable with that amendment at this time.

REP. ADAMS called for the question.

Motion/Vote: REP. GALVIN-HALCRO moved that **AMENDMENT TO HB 571 DO PASS**. Motion carried 14-3 with Keane, Smith, and Wolery voting no.

Motion: REP. GALVIN-HALCRO moved that **HB 571 DO PASS AS AMENDED**.

Discussion:

REP. KEANE said that he will be voting against this bill based on the testimony. It will create problems for many counties, including Butte Silverbow.

REP. SMITH said that he will have to vote against it. The 1500 feet distance bothers him. In his town there is storage closer than that. REP. GALLIK said that this would only be with new structures that are going to be built. REP. SMITH thought that it also included repaired. REP. GALVIN-HALCRO said that it says improved, not repaired.

REP. WOLERY said that he would not vote for this.

REP. GALLIK said this is a great idea, but he wished it applied to privately owned facilities as well. He doesn't see that these types of facilities should be that close. If we start now, we will make sure that these facilities are away from parks, schools, etc. It makes good sense.

REP. DALE pointed out that the sampling shows that the standards that are in place are being met.

Motion/Vote: REP. DALE moved that **HB 571 BE TABLED**. Motion carried 13-6 with Bixby, Gallik, Galvin-Halcro, Lenhart, Raser, and Waddill voting aye.

EXECUTIVE ACTION ON HB 418

Motion: REP. DALE moved that **HB 418 AND AMENDMENTS DO PASS**.

Discussion:

Ms. Evans read and explained the amendments.

Motion/Vote: REP. DALE moved that **AMENDMENTS TO HB 418 DO PASS**. Motion carried 16-1 with Smith voting no.

Motion: REP. JACKSON moved that **HB 418 DO PASS AS AMENDED**.

Discussion:

REP. WAITSCHIES stated that he doesn't like this bill. It leaves the door open to a complete gerrymander by annexation with no limiting minimum district.

Ms. Evans commented that this doesn't change the current law restricting or allowing annexation, except that instead of having all of the affected owners of the land having to agree, 55% would have to agree to it.

REP. WOLERY said that if you have this existing herd district with a meandering road entering it, there is nothing saying that you couldn't have really odd shaped lots following that road. If it would come out in square half mile sections it would be a better bill.

REP. SMITH compared this to a bill dealing with school districts passed four years ago. He opposes it.

REP. ADAMS asked if there is a difference between a herd district and a horse herd district. **REP. HEDGES** replied that herd districts cover livestock as defined and horses would be in a herd district. **Ms. Evans** commented that the reason horse herd district is included in the title is because horse herd districts do have their own separate part in the MCA. Rep. Younkin wanted to make sure that this bill applied to all herd districts and since they are listed separate in the statute, they were both listed in the bill.

REP. GALLIK said that he doesn't think that this bill says that once you get 55% of the affected land it gets annexed, it just gives you the ability to petition to the county commission.

Ms. Evans said that under a herd district, you can be in trouble if you have horses, mules, cattle, sheep, llamas, alpacas, bison, asses, hogs or goats that are willfully permitted to run at large.

REP. HEDGES said that this legislation does not force the livestock owner on which side of the road or adjacent to which part of the new herd district the fence has to be built. He can see where they would back up the herd district a little every year or two and the rancher with the livestock would end up building a new fence every year. For that reason he will oppose this bill.

REP. GALLIK asked if this would change the fencing requirements that we currently have. **Ms. Evans** replied that it says that

fences must be constructed or maintained pursuant to 70-16-205. That statute says that it is a mutual obligation of adjoining owners to build that fence. It is taking care of the fact that both sides of the fence have to help in the maintenance of that fence. **REP. GALLIK** asked if this means that on the boundary, somebody not within the herd district would have to pay for part of the fence. **Ms. Evans** replied that it would have to be pursuant to 70-16-205. **REP. GALLIK** then would like to move a substitute amendment to strike new section 1.

Motion: **REP. GALLIK** moved **AMENDMENT TO HB 418**.

REP. HOLDEN commented that they only have to fence if there is livestock.

REP. GALLIK said that what he understands is that if there is a new boundary to a herd district, the person who wants to annex into the herd district would be able to tell their neighbor who doesn't want in, you have to pay half. He thinks that the person who wants to get in should have to pay for the fence.

REP. WAITSCHIES said that the problem with **REP. GALLIK**'s idea is that we are changing it from 100% of the people want in to 55% of the people wanting in. This means that 45% of the people don't want the fence. **REP. GALLIK** responded that was true if the county commissioners agree that it happens. This is just to petition.

REP. SMITH asked, what if one of the commissioners is one petitioning for the herd district?

REP. HOLDEN asked if we could postpone this until the next meeting in order to ask Rep. Younkin what she thinks and then we would have a clearer understanding before they vote.

Substitute Motion/Vote: **REP. HOLDEN** made a substitute motion that **HB 571 AND AMENDMENTS BE POSTPONED**. **Substitute motion carried unanimously**.

EXECUTIVE ACTION ON HB 498

Motion/Vote: **REP. BIXBY** moved that **HB 498 DO PASS**. **Motion carried unanimously**.

EXECUTIVE ACTION ON HB 495

Motion: **REP. HOLDEN** moved **HB 495**.

Ms. Evans explained the amendments.

REP. HOLDEN said that the reason for the high fiscal note was because they wanted to drill 30 more wells and then they said that they didn't need to do that.

REP. KEANE asked if we pass the amendments would it have to clear the rest of the process by transmittal time.

REP. HEDGES said yes, it is not an appropriation bill. The proposed amendments would definitely reduce the cost.

Motion: **REP. HOLDEN** moved that **AMENDMENTS TO HB 495**.

Discussion:

Ms. Evans said that if the committee passes the amendments they can request a revised fiscal note and hopefully it would be available for floor action on it.

REP. RASER understand the concerns of Rep. Olson in bringing this up. She thought that it was more having to go through the whole environmental impact statement again. She thought that, from the testimony, that they already can use the information that is still valid. **Ms. Evans** commented that right now, once a permit is revoked it is gone. You have to go through everything in order to get the permit again. If you wanted to open the mine again, you would have to hire someone to do a new EIS. Whether or not you can use some of the information from the previous EIS, is up to the entity conducting the EIS and whether or not DEQ would accept that. This bill says that you don't have to have a new EIS unless the DEQ determines that there are significant impacts.

REP. RASER is concerned because five years is a lot of time. During this time there is reclamation going on.

REP. HARRIS said that he sees now that the operating permit doesn't become property of the state of Montana. However, it still seems to place the state of Montana at grave risk. They will have all the monitoring responsibilities. What happens if they can't find a new buyer to take over the permit? This could become an expensive proposition.

REP. GALLIK agrees with **REP. HARRIS**. He is looking at the technical notes, many of which he finds concerning. We are toying with disaster.

Motion/Vote: REP. HOLDEN moved that AMENDMENTS TO HB 495 DO PASS. Motion carried 12-6 with Bixby, Gallik, Harris, Keane, Lenhart, and Raser voting no.

Motion: REP. ADAMS moved that HB 495 DO PASS AS AMENDED.

Motion/Vote: REP. GALLIK moved that HB 495 AS AMENDED BE TABLED. Motion failed 9-10 with Adams, Bixby, Gallik, Galvin-Halcro, Harris, Keane, Lenhart, Raser, and Smith voting aye.

Discussion:

REP. HOLDEN asked the sponsor what the fiscal implications would be with the amendments. Rep. Olson said that it would take a whole bunch off of the fiscal note. REP. HOLDEN asked if he felt comfortable with the bill as amended. Rep. Olson said that he did.

REP. DALE said that the point was made at the hearing that if a permit is kept in limbo while some one tries to get organized to buy a new mine, who pays for the monitoring in the interim?

Rep. Olson said that the bond should cover that. In this instance it is still up for grabs, but the bonding should cover the monitoring during the reclamation period.

REP. RASER asked what the purpose of the bond was. Rep. Olson said that the bond is a reclamation bond. REP. RASER clarified that it is not a monitoring bond, so that wouldn't be using the money for which it was intended. Rep. Olson said that in this case the wells were plugged before they should have been. Reclamation is a long way from complete on this site. The bill says that when reclamation is substantially complete they can't use this process.

REP. RASER is concerned that this bill will cover any mine, coal or hard rock, not just the one mine being discussed. There is a potential liability. The bond is to cover the reclamation, not the monitoring. Would the state then not go through the reclamation in an attempt to hold this mine open?

REP. HEDGES commented that that concern is covered in the amendment.

Ms. Evans read from the amendment. An operating permit that is revoked in accordance with this part does not terminate until five years after revocation or until substantial completion of seeding and planting on disturbed areas, which ever occurs earlier.

REP. KEANE asked, in the amendments, would the state end up with the liability of this mine. **Ms. Evans** said that the liability is supposedly covered by the bond. If the state doesn't require a high enough bond to cover the issues, then they may end up with a liability. Those issues should be outlined in the permit.

REP. DALE said that current law requires that reclamation starts within two years of inactivity. Forfeiture of the bond is reason enough that that entity won't mine in the state again. He feels that the discussion of liability to the state is based on history and fear that isn't justified because the laws have been changed to prevent this from happening.

REP. HARRIS is still concerned that as a broad, statewide policy, this could be a huge liability for the state.

REP. HEDGES didn't think that this bill covered that. We have a situation where if you have a bonded operation and they decide to abandon the operation, this bill says that, while reclamation is going on, that someone can come in and apply for and receive an application and use some of the DEQ studies that have already been done. It has nothing to do with the previous operator's bonding or what the new bonding is going to be. It just allows the second man in line to get by with a smaller investment.

REP. RASER said that she was still concerned about who would determine when a substantial amount of seeding is done. **REP. HEDGES** said that DEQ would. **REP. RASER** said that the concerns that this seems to address are already allowable under law. They can use information from a previous EIS. Within five years things change. **REP. HEDGES** said that DEQ has the permission to grant that. DEQ will know if the law has been changed between permits.

REP. KEANE called for the question.

Motion/Vote: **REP. ADAMS** moved that **HB 495 DO PASS AS AMENDED**. Motion carried 12-7 with Bixby, Gallik, Galvin-Halcro, Harris, Raser, Smith, and Wolery voting no.

EXECUTIVE ACTION ON HJ 21

Motion/Vote: **REP. LEHMAN** moved that **HJ 21 DO PASS**. Motion carried unanimously.

ADJOURNMENT

Adjournment: 6:45 P.M.

REP. DONALD L. HEDGES, Chairman

ROBYN LUND, Secretary

DH/RL

EXHIBIT (agh38aad)